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International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 26 June 2009 from the Secretary-General addressed to the President of the General Assembly

I have the honour to transmit the attached letter dated 15 June 2009 from Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (see annex). The letter directly relates to the ability of the Tribunal to complete its work.

In his letter, President Byron requests that the General Assembly:

(a) Allow one judge to engage in another professional occupation in his home country and to work part-time at the International Tribunal while drafting his final judgement;

(b) Permit the Tribunal to recruit an additional ad litem judge from among the former permanent judges of the International Tribunal for the Former Yugoslavia or the ad litem judges of the International Tribunal for the Former Yugoslavia who have not been assigned to any case.

The letter sets out the justification for the requests.

I would be grateful if you would bring the present letter and its annex to the attention of the members of the General Assembly. I would appreciate the Assembly considering this matter at the earliest opportunity in order to provide the International Criminal Tribunal for Rwanda with the continuity and certainty necessary for the efficient completion of its work.

(*Signed*) **Ban** Ki-moon
Secretary-General

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Annex

Letter dated 15 June 2009 from the President of the International Criminal Tribunal for Rwanda to the Secretary-General

15 June 2009

I am writing to you with an urgent request:

Since my return from New York, I have been informed by Judge Short, the ad litem judge from Ghana serving on the International Criminal Tribunal for Rwanda, that he wishes to leave the Tribunal and is no longer ready to take on the case of *Kanyarukiga*, for which you had appointed him as Presiding Judge. In his letters to me, he refers to health problems and his wish to return to his previous position as Human Rights Commissioner of Ghana.

The decision of Judge Short puts the Tribunal in a particularly difficult situation. As you know, we are currently requesting the Security Council for an exceptional authorization for Judge de Silva to finalize his work at the Tribunal on a part-time basis while taking on judicial work in his home country of Sri Lanka. As Judge de Silva is presiding in a multi-accused trial (*Military II*), in which judgement delivery is expected in mid-2010, only this arrangement can ensure that he will not resign but finalize the work on the judgement.

The situation in connection with Judge Short is similarly difficult. Earlier, he had requested an authorization for part-time work, but in long discussions I had convinced him to stay on and to take over one of the new cases, *Kanyarukiga*. Unfortunately, he has now changed his mind. Judge Short is also sitting on the bench in the *Bizimungu et al.* case, a complex case involving four accused, in which the evidence phase lasted 400 trial days. Judgement delivery is expected in mid-2010. Judge Short is willing to finalize his work on the judgement if he is authorized to take up work again in his home country and to finalize the judgement for the Tribunal on a part-time basis.

With the length and complexity of the *Bizimungu* case in mind, I am left with no choice but to request that the Security Council include Judge Short in the requested authorization for Judge de Silva for part-time work until the delivery of the judgement in the cases to which they are assigned.

The decision of Judge Short not to preside in the *Kanyarukiga* trial has obvious serious implications also for the composition of the bench. All in all, benches still need to be composed for another five new trials to commence in 2009. Currently, only 14 judges are at all available at the Tribunal to take on new cases, but many of them are already handling a workload that does not allow for additional assignments. In particular, assigning presiding judges is difficult: they need to be experienced and have the capacity to handle the particular workload this function involves. I had originally decided against requesting an additional ad litem judge. The new situation, after the decision of Judge Short, with the loss of a presiding judge, makes it, however, unavoidable to request the appointment of another ad litem judge to serve on the Tribunal.

Previous attempts to recruit an additional judge from the available roster of judges elected in 2003 were not successful. All those remaining on the roster, namely, the judges from Sweden, the United Kingdom, the Netherlands and Panama, have been unavailable to take on service at the Tribunal during the current year. The

judge from Malaysia has passed away. The judge from Italy most likely will not be available before the end of October, which creates difficulties for our completion strategy. Several of the new cases have had to be adjourned for a variety of reasons, and it is important for the *Kanyarukiga* trial to commence in August in order not to risk a spillover of the evidence phase into 2010.

Therefore, I would like to request that an additional judge be recruited from among the retired permanent judges of the International Tribunal for the Former Yugoslavia or from among the ad litem judges on the roster of the International Tribunal for the Former Yugoslavia who are available and willing to join the International Criminal Tribunal for Rwanda at short notice. It would be particularly important in this situation to recruit an experienced judge who could replace Judge Short in presiding in the *Kanyarukiga* case and would allow the International Criminal Tribunal for Rwanda to meet the goals of its completion strategy.

(*Signed*) Dennis **Byron**
President of the International Criminal Tribunal for Rwanda